



General Assembly

January Session, 2009

Amendment

LCO No. 8382

SB0065008382SD0

Offered by:
SEN. MCDONALD, 27th Dist.

To: Subst. Senate Bill No. 650

File No. 707

Cal. No. 486

"AN ACT CONCERNING THE CREATION OF A TRUST FOR THE CARE OF AN ANIMAL."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2009*) (a) A testamentary or
4 inter vivos trust may be created to provide for the care of an animal or
5 animals alive during the settlor's or testator's lifetime. The trust shall
6 terminate upon the death of the last surviving animal. A trust created
7 pursuant to this section shall designate a trust protector in the trust
8 instrument whose sole duty shall be to act on behalf of the animal or
9 animals provided for in the trust instrument. A trust protector shall be
10 replaced in the same manner as a trustee under section 45a-474 of the
11 general statutes.

12 (b) Except as otherwise provided in this section, the provisions of
13 the laws of this state that govern the creation and administration of
14 trusts shall apply to a trust created to provide for the care of an animal
15 or animals pursuant to this section.

16 (c) (1) The superior court, or a probate court described in
17 subdivision (2) of this subsection, shall have jurisdiction over any trust
18 created pursuant to this section.

19 (2) A probate court shall have jurisdiction over any trust created
20 pursuant to this section if the trustee of the trust is otherwise subject to
21 the jurisdiction of such probate court, or the trust is an inter vivos trust
22 and the trust is or could be subject to the jurisdiction of such probate
23 court for an accounting pursuant to section 45a-175 of the general
24 statutes.

25 (d) The trustee of a trust created pursuant to this section shall
26 annually render an account for the trust, signed under penalty of false
27 statement, to the trust protector.

28 (e) Any individual identified as a trust protector pursuant to this
29 section may file a petition in the superior court or a probate court
30 having jurisdiction pursuant to subsection (c) of this section to enforce
31 the provisions of the trust, remove or replace any trustee of the trust,
32 or require a trustee to render an account as required under subsection
33 (d) of this section. The court may award costs and attorney's fees to the
34 trust protector, from the trust property, if the trust protector prevails
35 on a petition filed under this subsection and the court finds that the
36 filing of the petition was necessary to fulfill the trust protector's duty
37 to act on behalf of the animal or animals provided for in the trust
38 instrument.

39 (f) If the trust protector determines that the trustee has used trust
40 property for personal use or has otherwise committed fraud with
41 respect to the trust, the trust protector may request the Attorney
42 General to file a petition in the superior court or a probate court having
43 jurisdiction pursuant to subsection (c) of this section to enforce the
44 provisions of the trust, remove or replace any trustee of the trust or
45 seek restitution from the trustee with respect to such trust property.
46 The Attorney General may file such petition if the Attorney General
47 determines that the circumstances warrant such filing.

48 (g) Trust property may be applied only to its intended use, subject
 49 to proper trust expenses including trustee fees, except to the extent the
 50 superior court or a probate court having jurisdiction pursuant to
 51 subsection (c) of this section, upon application by the trustee or trust
 52 protector, determines that the value of the trust property exceeds the
 53 amount required for its intended use. Trust property not required for
 54 its intended use, including trust property remaining upon termination
 55 of the trust, shall be distributed in the following order of priority:

56 (1) As directed by the terms of the trust instrument;

57 (2) To the remainder beneficiaries identified in the trust instrument,
 58 under the same terms provided in the trust for the remainder interest;

59 (3) To the settlor, if then living;

60 (4) Pursuant to the residuary clause of the settlor's or testator's will;
 61 or

62 (5) To the settlor's or testator's heirs in accordance with the laws of
 63 this state governing descent and distribution."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	New section